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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,253	10/27/2003	Tim Roland	4041A-000010	2690

27572 7590 10/12/2006

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EXAMINER

CIRIC, LJILJANA (LIL) V

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,253

Applicant(s)

ROLAND ET AL.

Examiner

Ljiljana (Lil) V. Ciric

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2006 and 09 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,10-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1,6,7,10-15 and 17-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office action is in response to the replies filed on May 9, 2006 and on August 9, 2006.
2. Claims 1, 6, 7, 10 through 15, and 17 through 20 remain in the application.

Response to Arguments

3. Applicant's arguments, see pages 10 through 12 of the reply filed on May 9, 2006, with respect to the rejection(s) of claim(s) as being anticipated under 35 U.S.C. 102(b) or obvious under 35 U.S.C. 103(a) by EP 0 411 375 A1 (previously made of record via IDS) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of GB 2 208 542 A (previously made of record via IDS).

Election/Restrictions

4. All of remaining claims 1, 6, 7, 10 through 15, and 17 through 20 are readable on the elected species. Election was made **without** traverse in the reply filed on December 28, 2005.

Drawings

5. The drawings were received on May 9, 2006. These drawings are disapproved.
6. The originally filed drawings and the drawings filed on May 9, 2006 are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the center duct located *in a center console of the vehicle* as recited in claim 1 and the center connection duct located next to the seat bottom portion *between vehicle seats* as recited in claim 17 must be shown or the feature(s) canceled from the claim(s). Note that even paragraph [0022] of the specification states that the center console of the vehicle is NOT shown in the drawings. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include

Art Unit: 3744

all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

7. Receipt and entry of the abstract filed on May 9, 2006 is hereby acknowledged.
8. The abstract of the disclosure filed on May 9, 2006 is objected to because it does not concisely set forth and summarize the structure of the claimed apparatus. Correction is required. See MPEP § 608.01(b). Correction is required. See MPEP § 608.01(b).
9. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;

Art Unit: 3744

- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Claim Objections

10. Claims 1, 6, 7, 10 through 15, and 17 through 20 are objected to because of the following informalities, for example: "of a vehicle" should be inserted immediately following "a rear seat" [claim 1, line 1]; "a vehicle" [claim 1, lines 3-4] should be replaced with "the vehicle"; "said passenger" [claim 1, line 13] should be replaced with "the passenger"; and, "u-shaped" [claim 10, line 5 (both occurrences); claim 10, line 9; claim 13, line 2; claim 14, line 2; claim 17, line 3; claim 17, line 6; claim 17, line 10; claim 18, line 2; claim 19, line 2 (both occurrences)] should be replaced with "U-shaped". Appropriate correction is required.

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1, 6, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "appropriate" in claim 1 is a relative term which renders the claim indefinite. The term "appropriate" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Thus, as used to qualify the position of the blow-out port, this term renders the same indeterminate and the claim and claims depending therefrom indefinite.

Claim Rejections - 35 USC § 102

Art Unit: 3744

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1, 6, 10 through 15, and 17 through 20 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2 208 542 A (previously made of record via IDS).

GB 2 208 542 discloses an air conditioning (i.e., heating) apparatus comprising air conditioning or heating unit 15 for a vehicular seat essentially as claimed, including, for example: a generally u-shaped flexible duct member or ducting 27 having various accordion or bellows portions provided at a front seat 11 and located at least in part within the seat bottom portion of seat 11 as shown in Figure 3; a blow-out port at grille 35 connected to the flexible duct member 27 via an additional duct member or plenum 34, the plenum and grille or port 35 located within the seat back support portion of seat 11; and, a center connection duct 22 disposed in center console 25 and connecting the air conditioning or heating unit 15 to the u-shaped ducting 27.

The reference thus reads on the claims.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 7 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over GB 2 208 542 A (previously made of record via IDS).

Art Unit: 3744

As discussed in greater detail above, GB 2 208 542 discloses an air conditioning apparatus comprising heating unit 15 for a vehicle seat essentially as claimed, including continuous ducting flexible u-shaped ducting 27 as shown in Figure 3 and as described in greater detail above.

GB 2 208 542, however, does not specify that the ducting 27 as being formed as a single member *by a molding process*. Nevertheless, in addition to hereby taking Official notice that making ducting and piping using a molding process is well-known in the art, it is hereby further noted that “[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

Thus, it would have been obvious to one skilled in the art at the time of invention to modify the seat air conditioning apparatus of GB 2 208 542 to specifically make the continuous u-shaped ducting 27 as a single member using a molding process in order to simplify manufacture and assembly of the air conditioning apparatus, for example.


Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric whose telephone number is 571-272-4909. The examiner works a flexible schedule but can normally be reached between the hours of 10:30 a.m. and 6:30 p.m. on most weekdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Cheryl J. Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Ljiljana (Lil) V. Ciric
Primary Examiner
Art Unit 3744

lvc



not
approved.
A/C
10-07-06

1/6

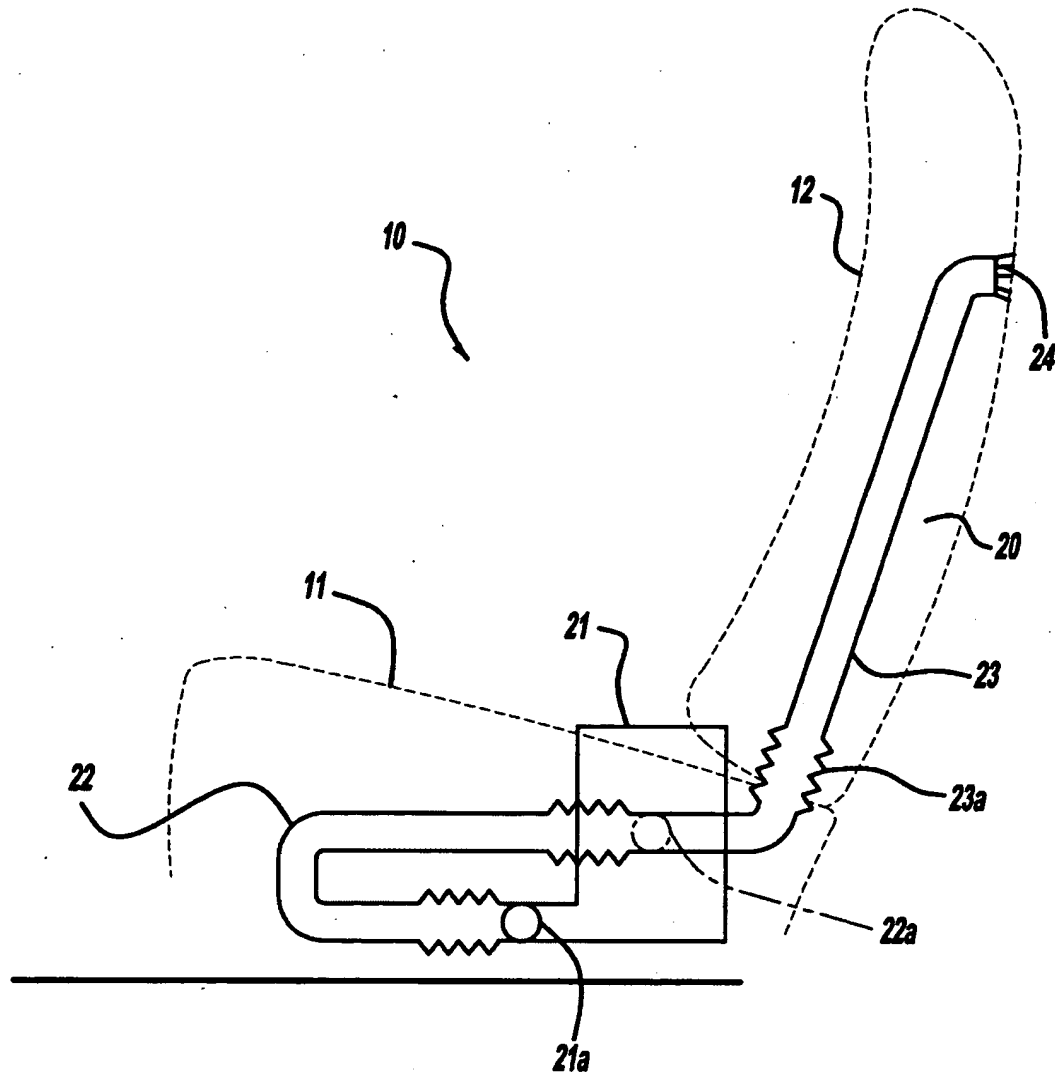


FIG - 1

not
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LRC
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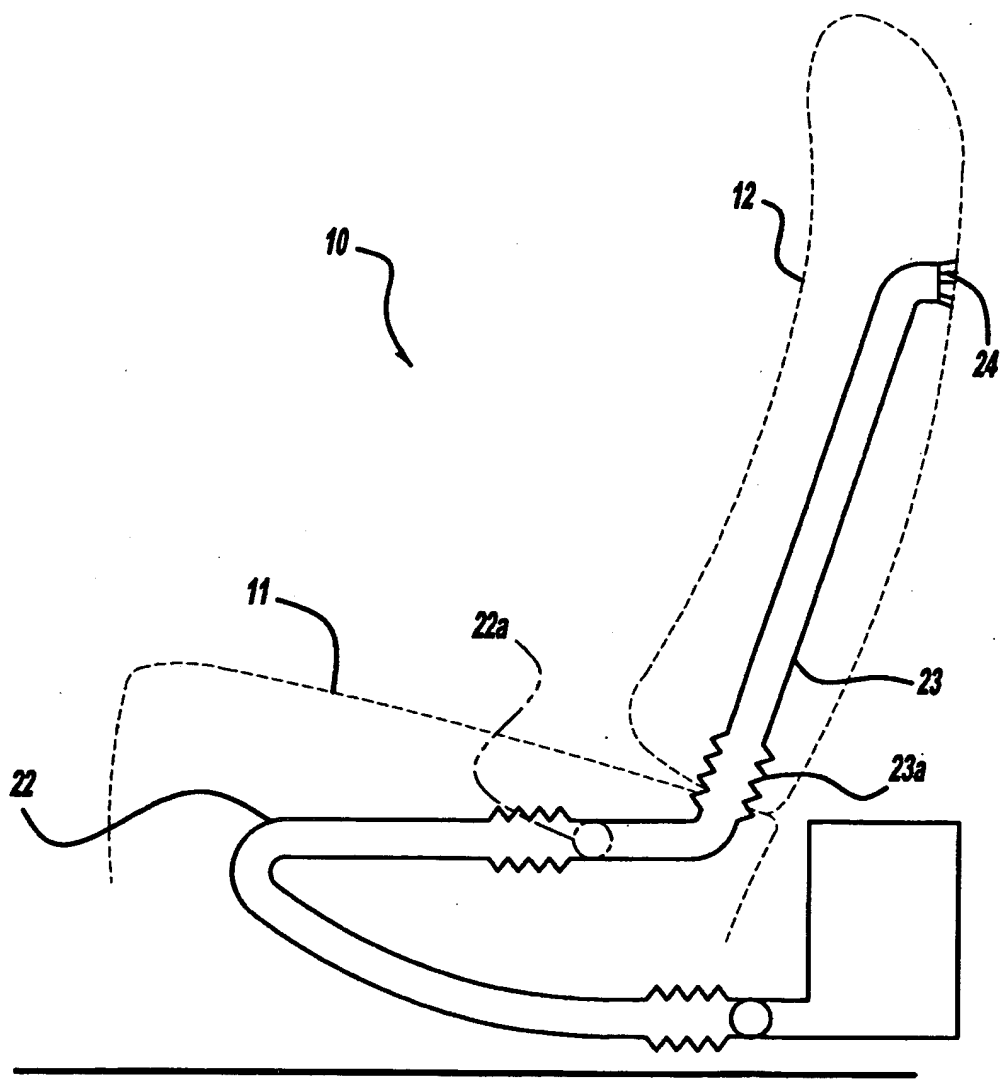


FIG - 2

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3/6

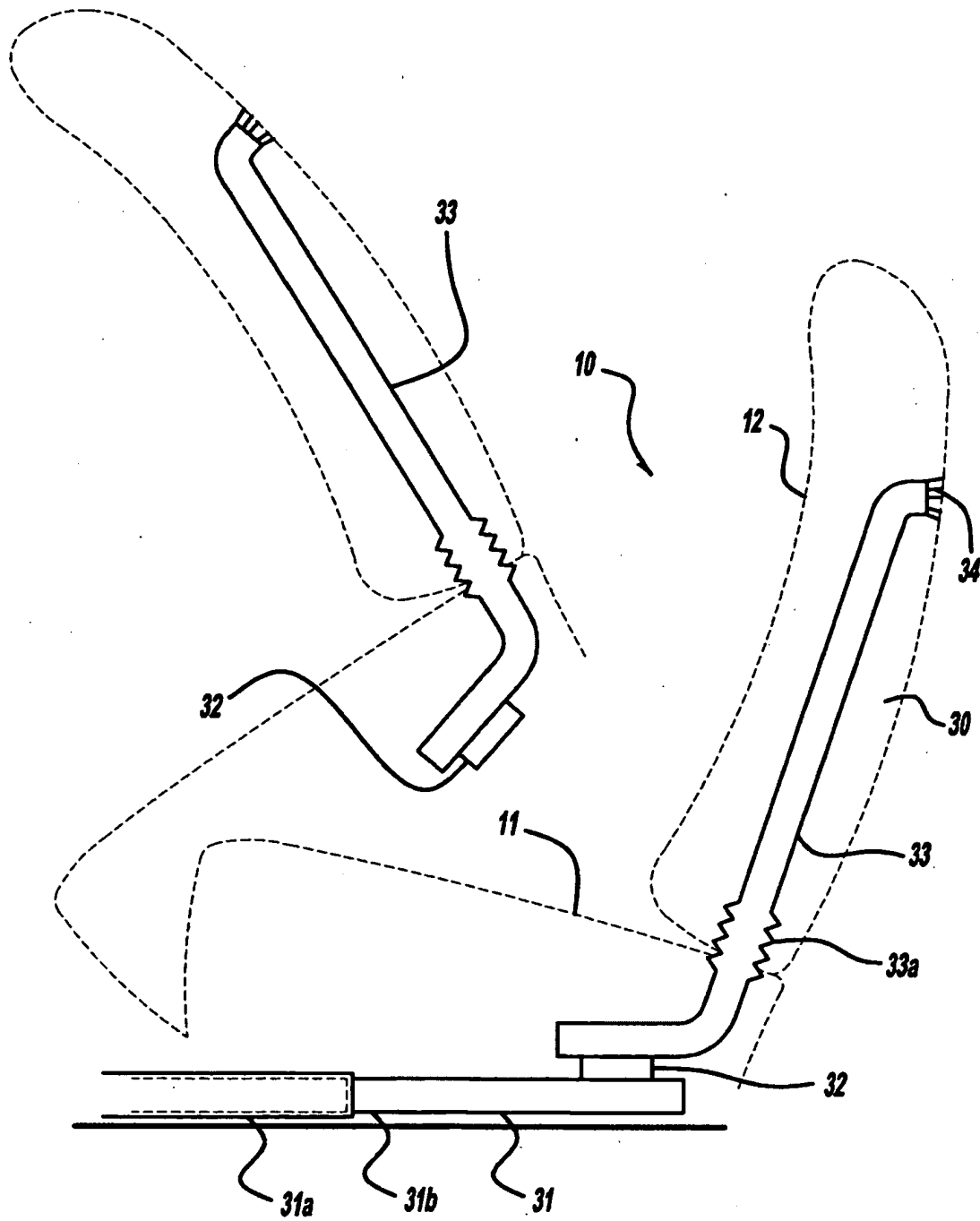


FIG - 3

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ARC
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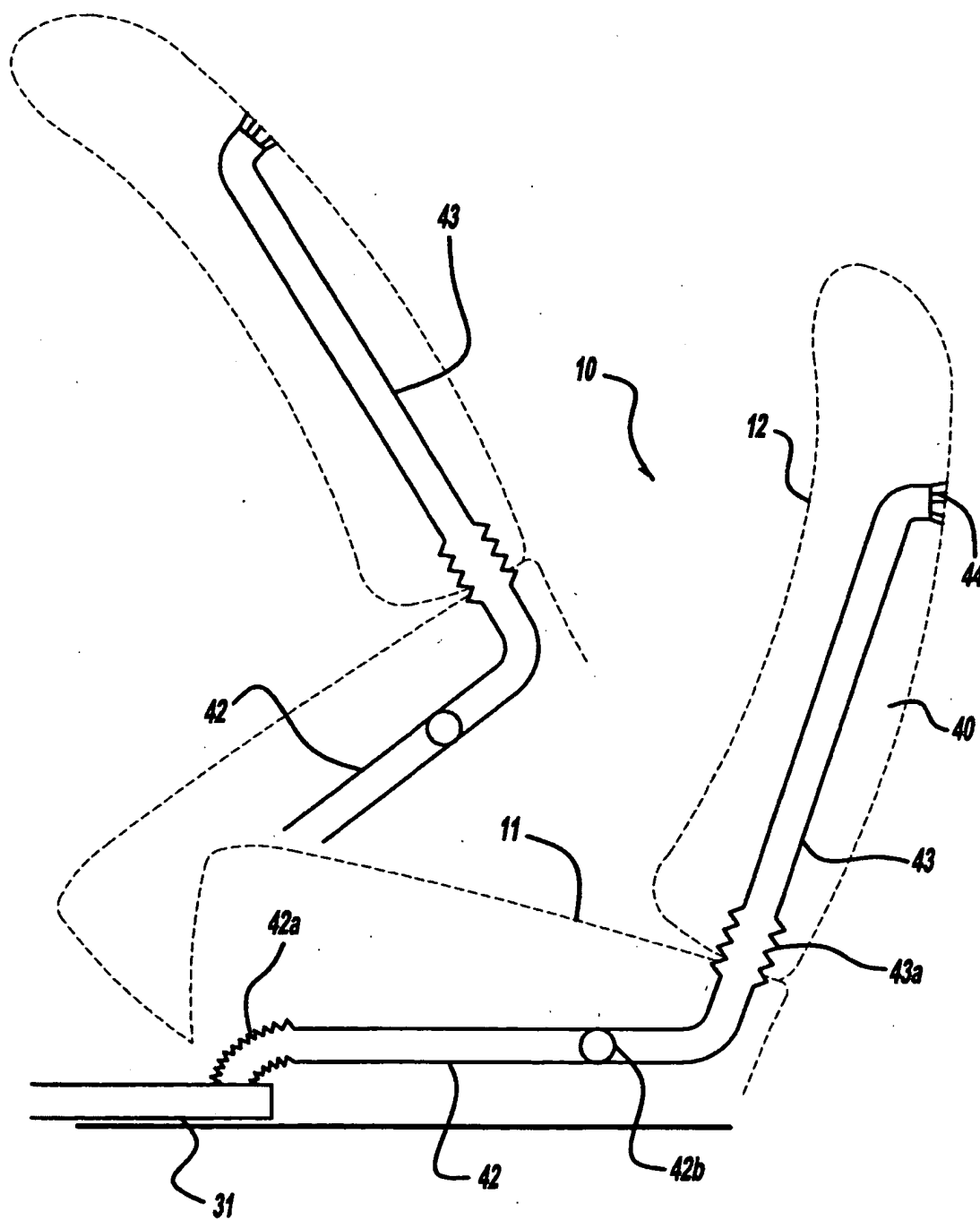


FIG - 4

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5/6

FIG - 5

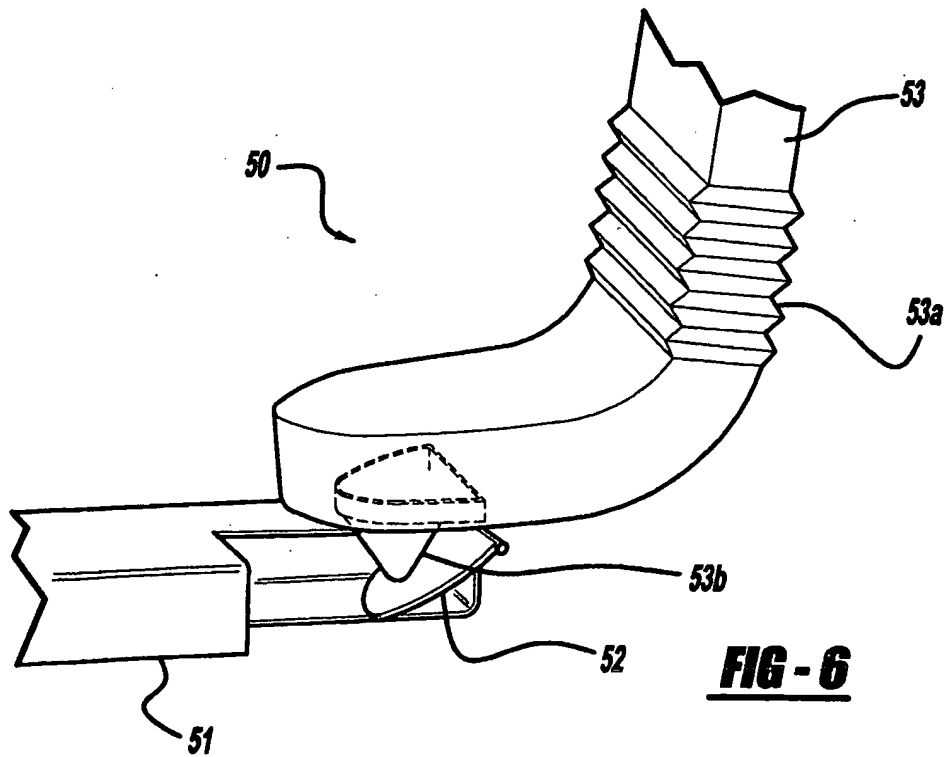
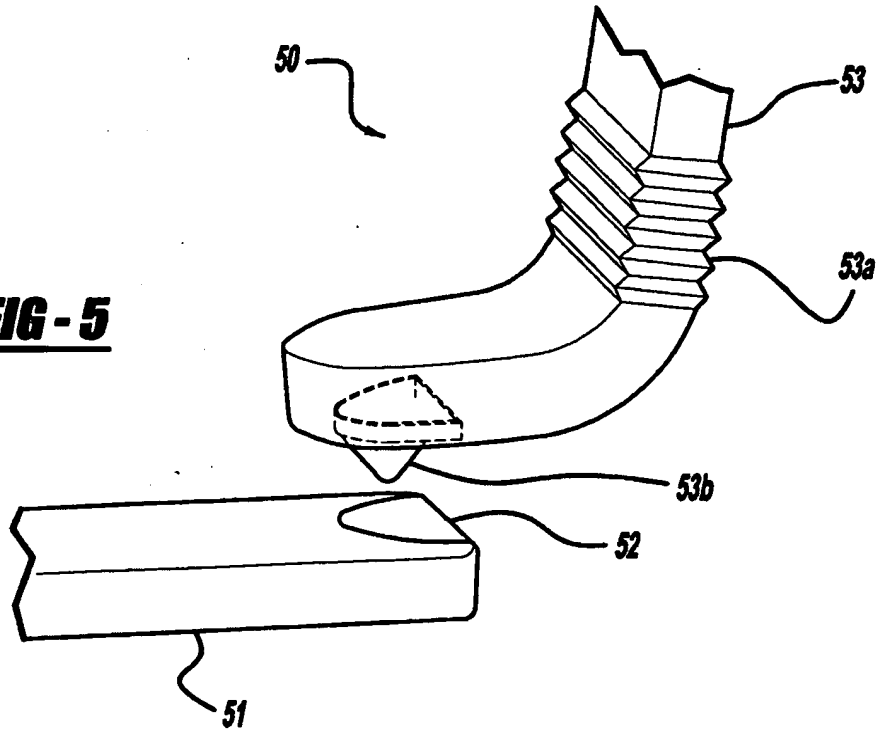


FIG - 6

not approved.
CNC
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